THE HON'BLE MR JUSTICE L.NARASIMHA REDDY

WRIT PETITION NO : 1531 of 2006

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Dated 28-01-2006

Between:

M/s.Navodaya Service Station, A firm rep.by its partner Smt.P.Shoba Rani, W/o.P.Chandraiah, Bodhan Road
Nizamabad

..... PETITIONER

AND

The Indian Oil Corporation Ltd., (A Company Regd.Under the Companies Act,1956) rep.by its Senior Divisional Manager
Secunderabad Divisional Office, 'Naspur House' Himayat nagar, Hyderabad and others

.....RESPONDENTS

THE HON'BLE SRI JUSTICE L. NARASIMHA REDDY

W.P.NO.1531 OF 2006

JUDGMENT:

The petitioner is a retail dealer of Indian Oil Corporation Ltd., for vending motor spirit and diesel. An outlet was established by the petitioner at Nizamabad. On 21.12.2005, the Mobile Test Laboratory of Hindustan Petroleum Corporation Ltd., has drawn samples of motor spirit and diesel from the petroleum outlet of the petitioner and conducted an on the spot analysis. The sample of diesel was found to be, in order. However, as regards the motor spirit, it was found that one parameter, viz., Final Boiling point, did not accord with the standard specifications. In view of the report submitted by the Mobile Test Laboratory, the respondents stopped supply of petroleum products to the petitioner. The same is challenged in this writ petition.

Sri M.S.Ramachandra Rao, learned counsel for the petitioner, submits that the petitioner is functioning as dealer for the past 15 years and there were no complaints against it. He contends that the petitioner was vending the product, that was supplied by the company, and in fact, a sample of the product, which was supplied to them was preserved with proper seal. Learned counsel points out that even before any final analysis of the samples, in accordance with the relevant procedure, was undertaken, the respondents have stopped the supply of the petroleum products.

Sri P.V.Sanjay Kumar, learned counsel for the respondents, on the other hand, submits that once it was found by the Mobile Test Laboratory, that the product held by the petitioner did not conform to the standard specifications, it is not in the interest of public, at large, that the petitioner is permitted to continue with supply of petroleum products.

The supply of petroleum to the petitioner is stopped on the strength of a report submitted by the Mobile Test Laboratory. According to the Marketing Discipline

Guidelines, whenever any such test is conducted, the testing agency is required to leave two samples with the dealer. The object underlying such a requirement is, to enable the dealers to get the samples tested, in the event of there being any dispute. In the instant case, the petitioner contends that it has been vending the same product, that was supplied to it, by the Company, and in fact, a sample thereof, has been preserved.

There is a serious dispute as to the correctness and genuineness of the seal and label that is said to have been put, on the sample, drawn from the tanker. Be that as it may, the request of the petitioner, to get the samples left with it, by the Mobile Test Laboratory , are yet to be analysed. Penalising the petitioner, even before such an exercise is undertaken, does not accord with the principles of fair play and equity. The respondents can certainly take action as and when it is finally established, that the product that was being sold by the petitioner, did not accord with the standard specifications. A further enquiry needs to be undertaken as to what exactly is the nature of the product that was supplied to the petitioner.

It is represented that as long as the product, which was found to be defective, remains in the tankers at the out outlet, it is not open to resume supplies.

Having regard to the facts and circumstances of the case, the writ petition is disposed of, directing that;

a. the stock of motor spirit in the petroleum outlet of the petitioner shall be removed by the respondents at the cost of the petitioner, within three days from the date of receipt of a copy of this order, and the supply of the motor spirit and diesel shall be resumed to the petitioner, soon thereafter.

b. The continuation of the supply of the said products to the petitioner would depend upon the outcome of the chemical analysis of the samples, that were left with the petitioner, by the Mobile Test Laboratory.

c. It shall be open to the respondents to verify as to whether the seals put by them on the samples are intact. It shall also be equally open to the petitioner to present the samples drawn from the tanker, for analysis, and in case the respondents are satisfied, that the sample represents the product contained in the tanker, the same shall also be subject to analysis.

d. There shall be no order as to costs.

L.NARASIMHA REDDY, J

Dt. 28.01.2006

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